

The Commonwealth of Virginia...

Chesapeake Bay Local Assistance Department

Bay Act News



"Healthy state and local economies and a healthy Chesapeake Bay are integrally related; balanced economic development and water quality protection are not mutually exclusive." - The Bay Act



Bay Act News **June, 2003 Issue 5**

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Program Notes:

**Scott Crafton,
Acting Executive Director**

According to Yogi Berra, "It ain't over 'til it's over!"

As the consideration of CBLAD's fate progressed into last December, the Wilder Commission finally recommended that the agency be merged into the Department of Conservation and Recreation (DCR). Legislation was introduced in the Senate to accomplish this.

As the session progressed, budget amendments were introduced in both Houses to restore some funding lost during the budget reduction process last year. The merger legislation moved along as well. Despite questions and reservations expressed by some members, the bill passed in the Senate by a large margin, and then the House Committee, again by a large margin. However, when the bill reached the floor of the House, an amendment was introduced to delay the merger until the summer of 2004, so the matter could be studied further. The amendment passed by a large margin, but the Senate rejected the amendment. So a conference committee was formed to see if some compromise was possible.

The conference committee held their last meeting on the final day of the session. No compromise could be reached, and the bill died. As a result, CBLAD will remain an independent agency for the foreseeable future. Furthermore, although most of the proposed budget amendments for CBLAD failed, the General Assembly did restore two of the three staff positions that were eliminated during the fall budget reductions, along with the funding for those positions.

Although our local assistance grant funds were not restored this year, it appears that there will be some limited funding available again this year from the VCRMP program at DEQ and the Chesapeake Bay Implementation Grant at DCR, to assist localities with some activities related to the Bay Act. This has been a rather tumultuous period for CBLAD staff, but we share the perspective framed in an African proverb: "Smooth seas do not make skillful sailors."

Staff Profiles: Margie Reynolds

.... I wonder what the weather's like in Italy today ...



Margie Reynolds, a native Richmonder, began her career with CBLAD in 1992. During her tenure, she has served as a liaison, and most recently as Grants Program Manager. Margie has recently accepted a position with C. Preston Dalrymple & Associates, a landscape architecture firm in the Richmond area. We will miss Margie, but understand her desire to more fully utilize her degree - Masters in Landscape Architecture from the University of Virginia - while also incorporating one of her passions - gardening. Prior to beginning work with Dalrymple & Associates, Margie looks forward to reviewing the landscapes and architecture of Italy and Germany during a well deserved vacation!

Welcome Aboard to Beth, Alex, and Brad!

Beth Baldwin will serve as the liaison for the



Northern Neck localities. Beth originally hails from Pennsylvania, but has called Virginia her home since 1998. She holds a master's

degree in environmental science from the State University of New York, College of Environmental Science and Forestry. Her work experience is diverse and includes both private and public sector employment. She has monitored farm workers for pesticide exposure in the croplands of California and has worked on water supply issues for New York City. Most recently she was an environmental manager for a food-processing company. She joined CBLAD in March 2003.

CBLAD, Alex was an environmental scientist for a Richmond area consulting firm conducting wetland/RPA delineations, permitting and mitigation design/monitoring. Alex is currently attending Virginia Commonwealth University to earn his Masters Degree in Urban and Regional Planning and has a bachelors degree in Environmental Science from the University of West Florida.

Brad Belo joined CBLAD on May 19 and will serve as the liaison for the Hampton Roads localities. He recently received his Masters Degree in Urban and Regional Planning from Virginia Tech where he also did post-baccalaureate studies in



wetland and forest resource management. Brad recently completed a survey of seventy-five local governments in western Virginia and eastern West Virginia to determine local karst and sinkhole land use planning regulations for the Cave Conservancy of Virginia. He holds a Bachelors Degree in Anthropology from James Madison University.



Alex Adams joined CBLAD on March 17 and is currently the Rappahannock Area Liaison. Prior to joining

Recently, David Kovacs and Doug Wetmore announced that they will be moving on to new opportunities in the coming months. David has accepted a new position as the Director of the Virginia Conservation Network (VCN). In this position, David will remain active in the environmental arena in Virginia. We will see David at the annual VCN Environmental Assembly and especially during the legislative session. Doug, meanwhile, is fulfilling a dream of moving out west. Doug will join the Land Use Department of Boulder County (Colorado) as a Planner II in the first week of July. There, Doug will review residential site plans for environmental and visual impacts.

The Department also wishes to express its gratitude to Dr. Ram Gupta and Lee Tyson who, earlier this year, accepted positions with the Department of Environmental Quality and Henrico County respectively.

Better Site Design Case Studies Completed for James City County and Richmond County

A report conducted by the Center for Watershed Protection with funding from CBLAD and the Virginia Coastal Program at DEQ to analyze the use of Better Site Design Principles in James City County and Richmond County was completed in October, 2002. The purpose of the study was to research the development review processes for two Virginia localities and to (1) determine how well the Virginia Better Site Design Principles are (or are not) currently being applied; (2) assess the major variables (incentives and impediments) that influence their use; and (3) make recommendations to local planners and program administrators to better implement the Virginia Better Site Design Principles.

This study was a follow-up to the previous work funded by CBLAD which identified the 16 model development principles that help localities better implement the three general performance criteria in the Bay Act regulations: (1) minimize impervious cover; (2) preserve indigenous vegetation to maximum extent practicable; and (3) minimize land disturbance. While *Better Site Design: An Assessment of the Better Site Design Principles for Communities Implementing the Chesapeake Bay Preservation* was the first step in promoting better site design, many of those involved with the development process cited that the process itself creates excessive impervious cover, land clearing and

contains barriers to implementing the model development principles.

The Case Study analysis took an in-depth look at the development review process, subdivision codes, zoning regulations, street standards, and other local and state standards and ordinances that collectively shape how development occurs within the two counties. Interviews were conducted with local staff as well as development industry representatives. Specific barriers to implementing better site design within each County were identified as well as specific recommendations for overcoming these impediments. This report provides important information that can be useful to other local governments that hope to provide incentives for implementing these principles. A copy of this report is available at

<http://www.cblad.state.va.us/publica.cfm#bsd>

CBLAD unveiled its new display at the Environment Virginia 2003 conference in Lexington, Virginia last month. Thanks to Alli Baird and Ron Wood for all of their hard work! If you would like the display set up at your event, contact Ron at (804) 225-3442.



Riparian Buffers: Protecting A Vital Resource, Video Available Soon

CBLAD has partnered with York County and their wetlands board to produce an educational video on the values and functions of riparian buffers and how they are managed under local Chesapeake Bay Preservation Act programs. The goal of the project is to protect riparian buffers by educating the viewer on their importance to the water quality of the Bay and its tributaries. The intended audience is waterfront landowners, prospective landowners, realtors, members of the development community, and others interested in riparian buffers. The video will be general enough so that it may be used in any Tidewater locality and should get the word out about the importance of riparian areas and how they are protected under the Bay Act. The video should be available to the public by the fall of 2003. Please contact Anna Drake at York County for more information on this project. Her phone number is (757) 890-3750.

Riparian Buffer Guidance Manual, Nearing Completion!

The long awaited buffer guidance manual under development by CBLAD staff is in its final stages. The guidance manual is intended to provide assistance to local government staff with the implementation of the buffer modification provisions of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations). The Department recognized the need for specific guidance on how to interpret and implement sections of the Regulations that address buffer establishment, conservation, restoration, and modification. These sections raised many administrative and technical issues for local government staff that the Department is trying to address through this comprehensive guidance document.

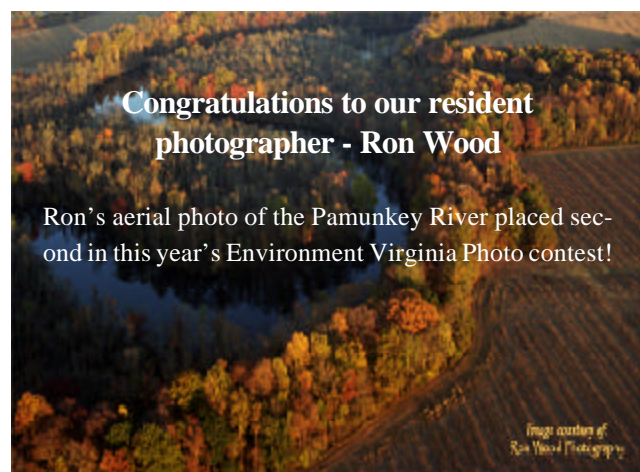
The Department was awarded a grant from the U.S. Forest Service (through the Chesapeake Bay Program's Forestry Workgroup) to undertake the Riparian Buffer Project, the primary goals of which *Chesapeake Bay Local Assistance Department*

were (1) to promote the establishment and conservation of riparian forest buffers within Tidewater localities through the development and distribution of information materials, and (2) to publish a regulatory

If you have questions about the buffer project, please contact Martha Little, Chief of Environmental Planning at (804) 371-7504 or Alice Baird at (804) 225-2307

buffer guidance manual. Department staff worked with a "Buffer Issues Committee" composed of Tidewater local government staff and a "Technical Committee" to assist with the more technical aspects of the project. The manual will cover topics ranging from riparian buffer functions and values, permitted buffer modifications, exemptions in the buffer, to buffer establishment, buffer uses and activities, buffer violations, and plant lists and planting details. The project also includes the development of a buffer brochure that localities can use for educational purposes.

The draft manual is currently under review by CBLAD staff and the project committees. The draft will become available for review by all interested parties by mid-June and will be easily accessed on the Department Website.



Congratulations to our resident photographer - Ron Wood

Ron's aerial photo of the Pamunkey River placed second in this year's Environment Virginia Photo contest!

**CBLAD Annual Local Government Workshop
Scheduled for September 17, 2003 at the Holiday
Inn (Boulevard) - Mark Your Calendars!**

Deadline Delayed for Local Bay Act Ordinance Revisions

On February 18, 2003, the Chesapeake Bay Local Assistance Department voted to extend the deadline for Tidewater local governments to adopt revisions to the local Bay Act ordinances to December 31, 2003. Secretary of Natural Resources Tayloe Murphy requested this action in response to concerns expressed to him by some local governments, environmental organizations, and the building industry. The primary reason for this delay was that CBLAD had not completed development of promised field protocols for determining perennial stream flow.

Among the amendments to the Bay Act Regulations adopted in December 2001 is a requirement for local governments, upon submission of a site plan or Water Quality Impact Assessment for approval, to confirm the flow regime of any stream channels on the site. The purpose of the requirement is to assure that all perennial streams are identified and have Resource Protection Areas (RPAs) designated around them. This will prevent inappropriate activities from occurring within RPAs.

CBLAD committed to provide scientifically defensible guidance protocols to assist localities and landowners with the process of making such site-specific identifications in the field. However, due to budget reductions and other staff turnover last year, we were unable to complete the development of this protocol by March 1, 2003, the date by which localities were to have adopted revisions to their local Bay Act ordinances to reflect the changes in the State regulations.

In order to assure that this process could move forward swiftly and avoid the need for any further delays in local ordinance amendments, Secretary Murphy has convened an ad hoc work group to help CBLAD complete development of the field protocols and to address several other questions pertaining to the new regulations, including a definition of "perennial stream," a definition of the term

"contiguous" as it relates to nontidal wetland provisions of the regulations, and some questions about local Chesapeake Bay Preservation Area (CBPA) maps. Both the Secretary and the Board asked that the process result in improved guidance, rather than the need for further immediate regulation changes, and that the results not necessitate the need for further extensions of the December deadline for local ordinance revisions.

This work group consists of representatives of the same stakeholder groups that raised the original questions. Assistant Secretary of Natural Resources Russ Baxter is facilitating this work group. The group held its first meeting on April 25th and made significant progress toward resolving the issues before them. The second meeting was held on May 29th. The work group will provide Secretary Murphy with a final report by July 1st.

CBLAD plans for the guidance protocols to include methods that can be used by local governments to determine the location of their perennial streams for CBPA mapping purposes, as well as methods that can be used in the field to verify the location of perennial streams where more general maps are used. As well, the available methods will include at least one low-cost, simple method that can be used by a property owner for determinations on an existing lot where construction in the buffer is being proposed. The alternative methodologies will vary in terms of their complexity (higher cost but more precise results) or simplicity (lower cost, but more generalized results). The work group is also striving to develop a reasonably general definition of "perennial stream" that not only will serve the purposes of the Bay Act program, but also as a model suitable for use in other State (and even federal) environmental laws and regulations.

As a result of the delay in completion of this protocol, CBLAD decided to delay holding our annual local government workshop (cont'd next page)

until this September, in order to still provide training on the protocols and their use. It is notable that 15 local governments have already adopted revisions to their local Bay Act programs, and some others have indicated that they do not intend to wait until December to adopt their revisions. For the most part, these are localities that have either conducted very specific stream determinations up front or had conducted such determinations in the past, and for whom the field protocol is not needed.

VIRGINIA NATURAL RESOURCES PARTNERSHIP AGENDA ANNOUNCED

Secretary of Natural Resources W. Tayloe Murphy, Jr. recently announced a detailed set of environmental actions that will help strengthen the Commonwealth's protection of natural and historic resources. These actions, collectively called the Natural Resources Partnership Agenda, were announced on April 30 at the 2003 Environment Virginia Conference held at the Virginia Military Institute in Lexington. The Partnership Agenda is a result of discussions at Governor Mark Warner's two-day Natural Resources Leadership Summit held

in Williamsburg earlier in April. This Summit involved approximately 130 participants representing the many constituencies that have concerns about Virginia's environment.

"The very clear message from summit participants is that Virginia must do more to ensure the health and viability of our environment and the great variety of resources we enjoy," Murphy said. "We are charting a new course that relies on commitments for cooperative efforts among state agencies, environmental and business organizations, local governments and others."

Among the action items are two with which CBLAD will be very involved: streamlining of State stormwater management programs, and promoting permanent land protection by finding alternative strategies and funding to promote easements and other forms of preservation. The second objective will also involve promoting "Better Site Design" and "Low Impact Development" practices. These principles represent environment-friendly, cost-efficient ways to design and build. Implementation of these principles will be pivotal to protect water quality and preserve open space in the face of continued growth. CBLAD will provide more information about the Partnership Agenda in an upcoming issue.

Board Meeting Highlights

The Chesapeake Bay Local Assistance Board held its first quarter meeting on March 24, 2003. At this meeting, the Board considered the first Phase I local program amendments for compliance with the revised Regulations. Prince William County was reviewed for consistency with the revised Regulations, and was found consistent with conditions and a compliance deadline of December 31, 2005. Chesterfield County's Phase II program was considered for compliance with previous conditions and was found consistent. It is anticipated that Phase I program revisions will be the primary local program review items on the agendas for the next several Board meetings. To date, 15 localities have adopted revised Phase I programs to comply with the changes to the Regulations adopted by the Board on December 10, 2001.

EPA Chesapeake Bay Program Highlights

The current focus of the Bay Program is on the goals set by the C2K commitment. As revision of Tributary Strategies is one such goal, the DEQ, DCR, and CBLAD will all be involved in teams that will update the previously prepared strategies. The updates are to be completed by May 2004. For more information, visit the Bay Program at www.chesapeakebay.net.

Stafford County Increases Options for Stormwater Management

On March 18, 2003, the Stafford County Board of Supervisors approved a revised Stormwater Ordinance adding an LID option to promote enhanced water quality. The revised ordinance enables developers to use a Low-Impact Development (LID) approach in managing stormwater runoff. LID takes a lot-level approach to stormwater management, treating rainfall where it falls by creating site conditions that allow the water to infiltrate into the ground. LID measures include using vegetation, stormwater infiltration, reducing areas of impervious surfaces and alternative pavement types to reduce the amount of stormwater runoff that leaves a development site. Developers and builders may use site design techniques and small landscaped features that have less impact on the environment such as rain gardens, grass swales, dry wells and rain barrels, located on individual building lots, to store, infiltrate, evaporate and detain stormwater runoff. "The use of these techniques helps to reduce off-site runoff, ensure adequate groundwater recharge, and they are more environmentally friendly," according to Barry Fitz-James, Assistant Director of the Department of Code Administration.

While becoming one of the fastest growing areas in the United States, Stafford is promoting proactive changes for developing sites to reduce pollution discharges into the Bay and help Virginia meet its C2K goals. Stafford County representatives say adding the new language to the stormwater ordinance is the first step in trying to change developers' habits in addressing stormwater runoff. The County is continuing to educate the public and development industry about LID and plans to try and add further incentives to make LID an attractive alternative. CBLAD, in fact, notes that leaders within Virginia's development industry have also begun to promote LID on their own, recognizing the cost-efficiencies and environmental improvements that result.

At the County's request, LID Design expert Neil Weinstein has agreed to teach a seminar designed to help design engineers to learn the "nuts and bolts" technical aspects of LID. The County hopes that once the class is complete, engineers will have a better understanding of LID concepts and will encourage more projects using these methods. The Planning Commission and Board of Supervisors are currently reviewing amendments to the Zoning and

Subdivision Ordinances that will provide incentives to developers who use LID. These include relaxing requirements for curb/ gutter, sidewalk, and/or pavement alternatives. Other ideas include allowing filter strips, engineered swales and other landscaped bio-retention facilities to be counted towards landscaping requirements. Stafford County is a member of a team consisting of local, state, and federal government entities who are attempting to develop a Memorandum of Understanding that will encourage LID practices by streamlining regulations of the various agencies and departments. The County will attempt to encourage applicants to consider LID practices during the preliminary/ concept phase of projects, prior to design plan submittal.

Stafford is also considering a clustering ordinance for agricultural zoned lands that represent the largest increase in residential lands. These additional tools will give the planning department the ability to protect the environment and developers will have the flexibility to implement site layouts based on field conditions. CBLAD would like to thank Stafford County for their hard work and dedication to the Chesapeake Bay Preservation Act.

The Stafford County Planning Department and Department of Code Administration encourages localities, developers and citizens to send comments and suggestions about how to make LID and other planning tools successful, and how to encourage developers to build better projects. For more information on design criteria, hydrologic analysis and computational procedures for LID stormwater management design plans, the Department of Code Administration recommends the following Web sites:

- Stafford County Stormwater Management Design Manual: www.co.stafford.va.us/code/sword.pdf
- Virginia Stormwater Management Handbook: www.dcr.state.va.us/sw/stormwat.htm#handbook
- Low-Impact Development National Manual: <http://www.epa.gov/owow/nps/lid> or [ftp://lowimpactdevelopment.org/pub/](http://lowimpactdevelopment.org/pub/)
- Low-Impact Development National Hydrology Manual: www.epa.gov/owow/nps/lid or [ftp://lowimpactdevelopment.org/pub/](http://lowimpactdevelopment.org/pub/)

Information in this article was provided by Stafford County Planning Department (Kathy Baker and Steve Hubble) and the Department of Code Administration (Barry Fitz-James and Jim Dossett). Stafford County's CBLAD Liaison is Alex Adams.

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"Afternoon Light on the Bay"

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